



## State of New Jersey

DEPARTMENT OF COMMUNITY AFFAIRS

OFFICE OF SMART GROWTH

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Governor

JOSEPH V. DORIA, JR.  
Commissioner

BENJAMIN L. SPINELLI  
Executive Director

November 17, 2008

The Honorable Jason J. Varano  
Mayor, Township of Berkeley  
627 Pinewald Keswick Road  
P.O. Box B  
Bayville, New Jersey 08721

**Re: Berkeley Township Petition for Plan Endorsement -- Visioning Waiver Request Update**

Dear Mayor Varano:

On October 30, 2008, the Office of Smart Growth (OSG) met with Berkeley Township's planning consultants, CMX, to receive an update on the Township's Plan Endorsement petition, as it specifically relates to the Township's proposed Transfer of Development Rights (TDR) program.

As you may know, OSG initially denied the Township's Visioning waiver request and provided for a *partial waiver*. Please note that this waiver was not denied due to lack of sufficient visioning but rather because of the revisions to the initial TDR proposal. However, after discussing the revised TDR program with CMX, OSG and our partner State agencies believe that further delay of the TDR program will result in an additional loss of opportunities to fully and permanently protect the environmental resources depicted in the newly proposed sending area. This has been apparent with the previously designated sending area, as seen in the Pinewald section of the Township. Therefore, OSG will be providing a *full waiver* for the Visioning requirement contingent upon the Township executing an aggressive and extensive public outreach program, as stipulated in the Township's 2005 TDR Smart Future Grant Agreement (Grant #2005-99900-0066-00).

As such, the TDR planning shall be an open and transparent process, particularly with regard, but not limited to, determining the location of the receiving areas, appropriate densities and design detail. This shall require significant public outreach and education that shall enable the Township to implement the goals and objectives of their Vision Plan, as to maintain and permanently preserve contiguous tracts of extensive open space. OSG will provide education materials in order to assist in this effort. OSG's website also has additional information that can be utilized by the Township for its outreach efforts (<http://www.nj.gov/dca/divisions/osg/programs/tdr.html>). It is suggested that at least two TDR education/brainstorming workshops be held. In addition, any Master Plan amendments for Plan Endorsement and TDR will require the appropriate public hearings and outreach. Lastly, a public hearing shall be held prior to the submission of the proposed TDR Plan and required documents pursuant to the State TDR Act (N.J.S.A. 40:55D-137 *et seq.*).

The next step in the Plan Endorsement process is for OSG and the State agencies to conduct a Consistency Review of the Township's planning documents and implementation mechanisms. However, as provided by the Township and CMX, the Township is currently undergoing a comprehensive Master Plan update, as to prepare for the implementation of a TDR program. OSG and our State agency partners require that these newly adopted plans and ordinances be submitted prior to the commencement of the



Consistency Review. In the meantime, OSG and our State agency partners will provide a preliminary Action Plan as to direct the Township to initiate the work for the TDR program, as well as to initiate work on other State agency requirements. This preliminary Action Plan shall be submitted to the Township by the end of December 2008.

Again, OSG and our State agency partners are providing for this *full waiver* contingent upon the Township executing an aggressive and extensive public outreach program and pro-actively pursuing the creation of the documents required by the State TDR Act and the 2005 TDR Smart Future Grant Agreement.

As always, OSG commends the Township for its active engagement and pursuit of Plan Endorsement and TDR. Should you have any questions, please feel free to contact Lorissa Whitaker, Principal Planner within OSG for Ocean County at (609) 633-6314 or via email at [lwhitaker@dca.state.nj.us](mailto:lwhitaker@dca.state.nj.us). We look forward to continuing to work with the Township as it pursues Plan Endorsement and further develops its TDR program.

Sincerely,



Benjamin L. Spinelli  
Executive Director

BLS:lw

c: David Roberts, Planning Consultant, CMX  
David Maski, Planning Consultant, CMX  
David McKeon, Planning Director, Ocean County  
Karl Hartkopf, P.P., AICP, Planning Director, OSG  
Lorissa Whitaker, Principal Planner, OSG  
State Agencies (*via email*)  
Berkeley Township Plan Endorsement File  
Berkeley Township Smart Future Grant File 2005-99900-0066-04